TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 18, 2007

Re: **TCEQ DOCKET NO. 2007-1374-UCR**, PETITION FROM DOUBLE DIAMOND, INC. FOR AN EXPEDITED RELEASE FROM WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 12362 OF NORTHWEST GRAYSON COUNTY WCID NO. 1 IN GRAYSON COUNTY; APPLICATION NO. 35564-C.

Dear Ms. Castañuela:

Enclosed for filing in the above-referenced matter, please find the original and 11 copies of the Executive Director's Response to Double Diamond's Motion to Overturn. Please forward this filing to the Office of the General Counsel. If you have any questions, please call me at 239-6257.

Sincerely,

Ross W. Henderson,
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

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TCEQ Docket No. 2007-1374-UCR

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TCEQ DOCKET NO. 2007-1374-UCR
APPLICATION NO. 35564-C

PETITION FROM DOUBLE DIAMOND, INC. FOR AN EXPEDITED RELEASE FROM WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 12362 OF NORTHWEST GRAYSON COUNTY WCID NO. 1 IN GRAYSON COUNTY; APPLICATION NO. 35564-C	§	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

THE EXECUTIVE DIRECTOR'S RESPONSE TO DOUBLE DIAMOND, INC'S MOTION TO OVERTURN

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW the Executive Director of the Texas Commission on Environmental Quality (TCEQ) and files this response to Double Diamond, Inc.'s ("Petitioner" or "DDI") Motion to Overturn (MTO) the Order of the Executive Director that denied the petition of DDI for expedited release. The Petition was filed pursuant to Section 13.254(a-1) of the Texas Water Code (TWC), and sought an expedited release from Northwest Grayson County Water Control and Improvement District (WCID) No. 1's ("Respondent" or "the District") Water Certificate of Convenience and Necessity (CCN) No. 12362 in Grayson County, Texas. The Executive Director respectfully defends his decision to deny such Petition, and in support would show the following:

BACKGROUND

An Order was issued by the Executive Director on July 23, 2007, denying DDI's Petition for Expedited Release. Notice of the Order was mailed on July 25, 2007. DDI timely filed a Motion to Overturn the Order on August 17, 2007.

A detailed account of the background information leading up to the filing of DDI's Motion to Overturn was provided in the Executive Director's Order. For brevity's sake, the Executive Director will not restate that information here, but will instead attach the Order to this response for reference purposes.

LEGAL AUTHORITIES

DDI filed its Petition for Expedited Release from the District's CCN pursuant to 30 Tex. Admin. Code (TAC) § 291.113(b) and Section 13.254(a-1) of the Texas Water Code (TWC). According to the provisions of Section 291.113(d), within 90 days from the date the Commission determines that a Petition for expedited release from a CCN is administratively complete, the Commission or Executive Director shall grant the Petition, unless the Executive Director or the Commission finds that the Petitioner failed to demonstrate the following elements of subsection (b) of 30 TAC § 291.113:

. . .[1]

(3) the certificate holder:

(A) has refused to provide the service;

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[1] 30 TAC § 291.113(b)(1) and (2) require a petitioner to show that a written request for service was provided to the CCN holder and the certificate holder was given at least 90 days to review and respond to the request. The ED did not make an express finding that the Petitioner failed to meet its burden with respect to (1) and (2). No party has challenged the ED's order with respect to (1) and (2), therefore, the ED will not address these elements in this response.

(B) is not capable of providing the service on a continuous and adequate basis within the time frame, at the level, or in the manner reasonably needed or requested by current and projected service demands in the area; or
(C) conditions the provision of service on the payment of costs not properly allocable directly to the petitioner's service request, as determined by the commission; and

(4) the alternate retail public utility from which the petitioner will be requesting service is capable of providing continuous and adequate service within the time frame, at the level, and in the manner reasonably needed or requested by current and projected service demands in the area.

. . .

ANALYSIS

30 TAC § 291.113 (b)(3) requires a Petitioner for expedited release to demonstrate *at least one of the following*: The CCN holder: (A) has refused to provide service; (B) is not capable of providing the service on a continuous and adequate basis within the time frame, at the level, or in the manner reasonably needed or requested by current and projected service needs in the area; or (C) conditions the provision of service on the payment of costs not properly allocable directly to the petitioner's service request, as determined by the Commission. The Executive Director found that DDI had failed to adequately demonstrate any of the above components of subsection (b).

30 TAC § 291.113 (b)(3)(A)

DDI states in its MTO that it never made an allegation that the CCN holder refused to provide service.[2] The Executive Director acknowledges DDI's point, however, the Executive Director felt it prudent to address this element since DDI never explicitly stated that it made no allegations as to whether the District had refused service and DDI had invoked subsection (b). Under Subsection (b), DDI could have met its burden by showing any one of the elements (A) to (C) to be true. If the Executive Director had ignored (A) and only made express findings with respect to (B) and (C), under subsection 291.113(d), an inference could have been made that DDI had met its burden on that element. The Executive Director found it more prudent to show the evidence refuting this element rather than make a blanket statement that the Petitioner never alleged it, since such an allegation could have been buried somewhere in the record - even if not readily apparent in the petition. Nevertheless, there does not appear to be any issue in this MTO with regard to this element

30 TAC § 291.113 (b)(3)(B)

Petitioner alleged that the District is incapable of providing service to DDI within the time frame, at the level, and in the manner reasonably needed or requested by current and projected service needs in the area. DDI did not address its objection to the Executive Director's express finding on this element in the body of its Motion, and

[2] DDI's MTO, p.7, note 5.

instead opted to address it in a footnote.[3] The evidence cited by the Petitioner does not demonstrate that DDI has met its burden of proof with respect to this element. The Executive Director notes here again the difficulty of evaluating this criteria caused by DDI's overstatement of the level of service needed and the timeline of its need. The Executive Director is still unclear exactly what level and manner and service DDI needs and in what timeline it is needed, but clearly, the timeline provided by DDI in its request for service was greatly overstated. The Executive Director does not believe that it is fair to a CCN holder to allow a petitioner to overstate its need for service, especially in light of the fact that the Executive Director must evaluate whether the CCN holder can meet the Petitioner's needs.

The bottom line, however, is that the Executive Director could not really determine what DDI's actual needs were in light of its overstated request and saw no credible evidence that the CCN holder would not be able to meet the needs, whatever they may be. The District's tariff requires a developer to contribute to the construction of facilities required for the developer's service needs. This means that it would indeed be difficult to make a showing that the CCN holder could not meet the level and manner of service required by the petitioner when the petitioner and the CCN holder are proposing almost identical facilities. This fact might be different if the Petitioner was proposing substantially different facilities, and the proposed facilities could be shown to better suit its needs.

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[3] DDI's MTO, p.7, note 5.

30 TAC § 291.113 (b)(3)(C)

Petitioner alleges that the District is attempting to charge DDI for costs which are not properly allocable to DDI's service request. DDI complains that the Executive Director "mistakenly believes that this criteria involves a comparative cost analysis." As will be shown, it was DDI's conclusory statements about the costs that led the Executive Director to reference the cost comparisons in its express findings.

DDI made several unproven allegations in its Petition regarding this element. The Executive Director made it clear in its Order that DDI's confusing overstatement of its need for service and timeline made it unclear to the Executive Director whether the Executive Director should give any consideration to DDI's complaints that certain charges were not properly allocable. The Executive Director's express findings were intended to show that: 1) DDI's conclusory statements did not suffice to show that any costs were not properly allocable regardless what level and manner the Executive Director considered; and 2) DDI's actual demonstrated (and greatly reduced) need for service and timeline showed that many of the costs complained of by DDI may not even be necessary when DDI's actual need for service is finally revealed.

Petitioner's first two allegations concern approximately 36,000 linear foot of 12" water line. DDI first claims that the District's requirement that DDI pay the cost to construct 30,000 feet of off-site 12" water line to the south of the Property "serves to benefit the Certificate Holder, by allowing it to serve adjacent properties, while the costs for the line are to be borne solely by the Petitioner."[4] This conclusory statement was not

[4] DDI's Petition, p.3, Section 10(A).

supported by any evidence. Nowhere in the Petition does DDI state that 12" lines are too large for its service needs. DDI provided no evidence that the District had any intent to use the 12" lines to immediately serve adjacent properties (or that adjacent properties are even developable for that matter). DDI simply made a conclusory statement that the District might someday be able to connect other properties to the proposed lines which would run from the District's facilities to DDI's property. Therefore, DDI argued, the District is improperly allocating the costs of these speculative customers to DDI. This is simply not enough for DDI to meet its burden.

The second allegation by DDI was: "Certificate Holder would require Petitioner to bear the full cost to construct over 6,000 feet of off-site 12" water line (along Liberty Road) to connect Property to rest of Certificate Holder's system; despite the fact that Certificate Holder has insufficient water supply to benefit Petitioner's property. The Liberty Road line only benefits Certificate Holder, not Petitioner." Apparently, DDI argues that because its own proposed facilities would be on-site; connecting to the District's off-site facilities would only benefit the District. The Executive Director fails to see how a service line which would connect service to DDI would only benefit the District. Furthermore, DDI never provided any evidence how the District would otherwise benefit. In sum, DDI failed to show in any meaningful way how either of these proposed lines would benefit the District other than facilitating its service to DDI.

DDI next argued that the District's proposed charges for a capital contribution fee and tap fee were not properly allocable to DDI because: i) "Certificate Holder, as a district, has no authority to charge a capital contribution fee"; and ii) "certificate holder

has provided no evidence of any TCEQ approval of an impact fee . . . Petitioner believes that Certificate Holder's tap fee and capital recovery fee constitute an illegal impact fee."

While the District's estimates to DDI did not include a tap fee or capital contribution fee, during the parties' negotiations the District conveyed that DDI would be required to pay these charges. Petitioner never cited any law which would preclude the recovery of a capital contribution fee. However, assuming that DDI is correct in stating that a District cannot charge a capital contribution fee, the Executive Director was satisfied with the sworn affidavit of the General Manager of the District that included a statement that the capital contribution fee mentioned was not applicable to DDI and that DDI had been notified of the fact.

DDI's argument with respect to the tap fee was that it, along with the capital contribution fee, constituted an illegal impact fee because the District never provided a copy of any authorization or TCEQ approval of the tap fee. DDI never explained or provided evidence how the costs associated with the tap fee (or the capital contribution fee) were not properly allocable DDI. A tap fee is a generally accepted means of recovering the expense of installing a meter at the point of service for the customers. DDI never alleged that there would not be any such expenses or that the collection of a tap fee would be allocated to anything other than connecting DDI's lots to the system. DDI's statement that the District had not provided its authorization to charge a tap fee is not directly relevant to whether the costs are properly allocable.

The above paragraphs show how the Executive Director made its express finding that DDI had failed to meet its burden of proof, even considering its greatly overstated

need for service provided to the District. The Executive Director went further to show that many of the above costs complained of by DDI may not be applicable to DDI if its true level and manner of service and timeline were ever to be known. The District provided statements that its estimates for constructing new facilities may not be required since the District stated that it appeared to have enough excess capacity to meet DDI's current demands. The Executive Director's point in mentioning the changing timeline was to show how neither the Executive Director or the District knew what DDI's actual needs were. DDI's own submissions to the TCEQ and its failure to meet its own rigorous timelines showed the overstatement of its needs. Had the District known what DDI's actual needs were, the District may not have submitted estimates which included the construction of new facilities or the construction of 12" off-site lines. The Executive Director believes that this element should only be relevant to costs not properly allocable to the requestor's actual need, not its overstatement of needs. Nevertheless, even considering DDI's full request and timeline, the Executive Director found that DDI had failed to make a requisite showing of proof.

30 TAC § 291.113 (b)(4)

Even if the Petitioner had met its burden with respect to one of the above components of subsection 291.113(b)(3), subsection 291.113(b)(4) required that a Petitioner for expedited release must additionally show that its alternate retail public utility from which the petitioner will be requesting service is capable of providing the service on a continuous and adequate basis within the time frame, at the level, and in the

manner reasonably needed or requested by current and projected service needs in the area. Additionally, the alternate retail public utility must be an existing retail public utility or a district that is proposed to be created.

Petitioner failed to show that its alternate retail public utility, Double Diamond Utilities Company, is capable of providing the service on a continuous and adequate basis within the time frame, at the level, and in the manner reasonably needed or requested by current and projected service needs in the area. The nearest DDU water system is located in Cleburne, Texas, approximately 137 miles from the proposed development. DDI submitted plans for a proposed water plant capable of providing service to only 200 connections. The level and manner of service and timeline estimated and requested by DDI in its plans submitted for its water plant do not meet the level and manner or the timeline it submitted to the District in its written request for service.

CONCLUSION

For the above stated reasons, the Executive Director requests that the Commission deny DDI's Motion to Overturn the Executive Director's Order issued in the above captioned matter.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

By: _____
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2007, a true and correct copy of the foregoing document was sent by first class, agency mail and/or facsimile to the parties.

_____
Ross W. Henderson, Staff Attorney
Environmental Law Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on
JUL 25 2007
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

APPLICATION NO. 35564-C

PETITION FROM DOUBLE DIAMOND, INC. FOR AN EXPEDITED RELEASE FROM WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 12362 OF NORTHWEST GRAYSON COUNTY WCID NO. 1 IN GRAYSON COUNTY; APPLICATION NO. 35564-C	§	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

ORDER

Double Diamond, Inc., ("Petitioner" or "DDI") applied to the Texas Commission on Environmental Quality (TCEQ) for an expedited release from Northwest Grayson County Water Control and Improvement District (WCID) No. 1's ("Respondent" or "the District") Water Certificate of Convenience and Necessity (CCN) No. 12362 in Grayson County, Texas pursuant to Section 13.254(a-1) of the Texas Water Code (TWC).

BACKGROUND

Petitioner owns approximately 1250 acres in Grayson County that is not in a platted subdivision actually receiving water. Petitioner's property is located within the water CCN No. 12362 of the District. On May 24, 2006, DDI submitted a written request for water service to the District. DDI's requested service contained 5 phases of

development beginning in January 2007 and ending in January 2009.[1] On June 20, 2006, the District's engineer sent a response to the request for service stating that the District was eager to provide the service to the proposed development and provided preliminary estimates based upon the level and manner of service DDI submitted in its phased request. The District also requested more detailed information regarding the requested service needs and asked DDI to submit a "Non-Standard Service Contract."

On December 15, 2006, Petitioner filed a petition with the TCEQ for expedited release from the District's water CCN No. 12362. The Petition alleges that it intends to develop a master planned community of 2,300 residential lots and the future development of a hotel, condominiums and a restaurant; alleges that the District is not in a good position to add new connections to its system due to a lack of excess capacity and thus is incapable of providing DDI service on a continuous and adequate basis within the time frame, at the level, or in the manner reasonably needed or requested by current and projected service demands in the area; alleges that the District has conditioned the provision of service to the property on the payment of costs not properly allocable directly to Petitioner's Service demands; alleges that Petitioner has the commitment of an alternative water provider, Double Diamond Utility, Inc. (DDU); and alleges that DDU can provide the level and manner of service that DDI requires at a fraction of the cost estimates provided by the District.

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[1] Phase I - to be completed by January 2007 (681 residential properties); Phase II - to be completed by July 2007 (418 residential properties, a sales office and, corporate meeting facility); Phase III - to be completed by January 2008 (473 residential properties, 30 condominiums , a ship store, swimming pool, marina, and bathhouse); Phase IV - to be completed by July 2008 (346 residential properties, 100 room hotel, 50 condominiums, and restaurants); and Phase V - to be completed by January 2009 (222 residential properties, 100 room hotel expansion).

On December 26, 2006, Mr. Arturo D. Rodriguez, Jr., the attorney for the District, provided a response to the Petition rebutting the allegations of the Petition and demanding that the Petition be returned for alleged deficiencies in the petition.

On December 27, 2006, a Notice of Deficiency (NOD) letter was sent to DDI requesting additional information with a response deadline of January 26, 2007. On January 24, 2007, the Petitioner responded to the December 27, 2006, NOD with additional information.

On February 7, 2007, the Petition was accepted for filing by the Executive Director. On February 9, 2007, the Executive Director requested more information from DDI. After numerous submissions from the Petitioner and the District, on March 13, 2007, Petitioner notified the Executive Director that the parties wished to abate consideration of the Petition in order to attempt mediation of the issues in controversy.

On May 25, 2007, Petitioner provided a request to resume consideration of the Petition which stated that mediation had not been successful. The Executive Director began processing the Petition again on May 26, 2007.

A final NOD was sent to Petitioner on June 15, 2007, requesting information which would explain the apparent discrepancies between the level and manner of service requested of the District in DDI's initial request for service and the much reduced level and manner of service being applied for by DDI in its application for approval of DDU's

plans and specifications.[2] The Executive Director received DDI's response to the final NOD on June 25, 2007.[3]

According to 30 Tex. Admin. Code (TAC) § 291.113(d), within 90 days from the date the Commission determines that a Petition for expedited release from a CCN is administratively complete, the Commission or Executive Director shall grant the Petition, unless the Executive Director or the Commission finds that the Petitioner failed to satisfy the elements of subsection (b) of 30 TAC § 291.113.

After considering the petition and all relevant information submitted by the Petitioner and the Certificate holder, the Executive Director finds that Petitioner, Double Diamond, Inc., failed to satisfy the elements of 30 TAC § 291.113(b) required for an expedited release from CCN No. 12326 of Northwest Grayson County WCID No. 1.

30 TAC § 291.113(b)(3) requires a Petitioner for expedited release to show that the Certificate Holder: (A) has refused to provide service; (B) is not capable of providing the service on a continuous and adequate basis within the time frame, at the level, or in the manner reasonably needed or requested by current and projected service needs in the

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[2] DDI has separate applications for approval of plans and specs for the proposed water system to be operated by DDU. DDI's engineer has consistently sought approval for far less capacity requirements and at a significantly slower timeline indicated by DDI in its written request for service to the District.

[3] Letter from DDI dated, June 25, 2007 (in response to NOD dated June 15, 2007), the total number of connections required changed from 1,099, to be completed by July 2007, to 477 residential lots. **New Phase I** (changed from 681 residential properties in January 2007, to 477 residential lots in March 2007 and an additional 100 residential lots in September 2007); **New Phase II** (changed from 418 residential properties, a sales office and corporate meeting facility in July 2007, to 580 residential lots in July 2008). **New Phase III** (changed from 473 residential properties, 30 condominiums, ships store, swimming pools, marina and bathhouse in January 2008 to 518 residential lots, a sales office, and corporate meeting facility by July 2009); **New Phase IV** (changed from 346 residential properties, 100 room hotel, 50 condominiums, and restaurant to be completed by July 2008, to 473 residential lots 30 condominiums, ships store, swimming pools, marina and bathhouse by July 2010); **New Phase V** – (changed from 222 residential properties, 100 room hotel expansion, 50 condominiums, to be completed by January 2009, to 346 residential lots, 100 room hotel, 50 condominiums, and restaurant in July 2011); **Phase VI** has been added which was not in the original request (100 room hotel expansion, and 50 condominiums by July 2012).

area; or (C) conditions the provision of service on the payment of costs not properly allocable directly to the petitioner's service request, as determined by the Commission.

30 TAC § 291.113(b)(4) requires that a Petitioner for expedited release must additionally show that it its alternate retail public utility from which the petitioner will be requesting service is capable of providing the service on a continuous and adequate basis within the time frame, at the level, and in the manner reasonably needed or requested by current and projected service needs in the area. Additionally, the alternate retail public utility must be an existing retail public utility or a district that is proposed to be created.

With respect to the elements required to be met by the Petitioner in subsection (b) of 30 TAC § 291.113, THE EXECUTIVE DIRECTOR MAKES THE FOLLOWING EXPRESS FINDINGS AND CONCLUSIONS:

1. 30 TAC § 291.113(b)(3)(A) - Petitioner has failed to show that the District has refused to provide service. On July 20, 2006, the District provided a response (petition exhibit H) indicating they were eager to provide service to the proposed development. Cost estimates for providing water service to the requested development in phases were included with the District's response. In a letter dated February 5, 2007, Kerry D. Maroney, P.E., (the District's Engineer) stated, "The District has never refused to provide water service to DDI. In fact the District has always affirmatively stated that it has the ability and desire to provide service to DDI." DDI did not provide a response to Mr. Maroney's letter.

2. 30 TAC § 291.113(b)(3)(B) - Petitioner has failed to show that the District is not capable of providing the service on a continuous and adequate basis within the time frame, at the level, or in the manner reasonably needed or requested by

current and projected service needs in the area. In its written request for service to the District, DDI did not provide the district with an accurate timeline for which water service would be needed. Since filing the petition, DDI has amended its timeline for requested service and has submitted plans for a water plant which does not meet the level and manner of service it requested of the District. DDI requested the District to provide service for 1,099 connections by July 2007, yet DDI only submitted plans for a water plant that would support 200 connections. No distribution system has been approved by the Commission. DDI has since amended its timeline to reflect an extended timeline for service, but still only has the capability to currently meet the demands required of a 200 connection system, without any distribution. Mr. Kerry Maroney the District's engineer, has indicated in a letter dated February 5, 2007, that the District currently owns and operates water facilities required to immediately provide phased-in water service to the development. The District has excess elevated storage tank capacity to serve an additional 346 connections, has excess well capacity to serve an additional 479 connections, has excess service pump and ground storage tank capacity to serve an additional 546 connections, and has distribution lines within 1,800 feet of the proposed development. The District is working with Greater Texoma Utility Authority (GTUA) to acquire 2000 acre-feet of surface water from Lake Texoma by the end of 2008 to supplement its groundwater supply. The District proposes to construct a surface water treatment facility from which an estimated 1966 new service connections could be served. DDI has failed to provide any credible evidence that the District cannot meet any of the timelines

proposed by DDI. DDI has not shown that the cost estimates provided by the District do not meet the level and manner of service needed, because the Executive Director has been unable to determine what effect the changing timeline would have on the District's estimated costs to provide the service.

3. 30 TAC § 291.113(b)(3)(C) - Petitioner has failed to show that the District has conditioned the provision of service on the payment of costs not properly allocable directly to the petitioner's service request. The Petitioner has changed the timeline for which service was originally requested. The Petitioner has not formally provided the District with a request for service based on the revised timeline provided in the June 25, 2007, letter. The District has not been given the opportunity to revise the original estimate for providing service. DDI's amended timeline may obviate the need for the costs which DDI claims are not properly allocable to its development. The District's engineer states that "the less than $4,000,000 estimate was a preliminary estimate (dated July 20, 2006) to provide water service to 1,099 connections by July 2007 as requested by DDI. It included the construction (on an accelerated schedule) of all facilities including a 500,000 gallon elevated tank and water supply wells from a proven groundwater supply area that will meet all TCEQ standards." Additionally, the general manager of the District states in an affidavit that the cost information provided by Mr. Maroney relates only to construction of facilities needed to serve solely the development proposed by DDI and that DDI, by utilizing the proposed plan developed by Mr. Maroney, will not be required to pay a capital contribution fee to the District.

4. 30 TAC § 291.113(b)(4) - Petitioner has failed to show that its alternate retail public utility, Double Diamond Utilities Company, is capable of providing the service on a continuous and adequate basis within the time frame, at the level, and in the manner reasonably needed or requested by current and projected service needs in the area. The nearest DDU water system is located in Cleburne, Texas, approximately 137 miles from the proposed development. DDI, not DDU, has submitted plans for a proposed water plant capable of providing service to only 200 connections. Neither DDI nor DDU have submitted plans for a distribution system supporting the approved water system of 200 connections or the rest of the development. The level and manner of service and timeline estimated and requested by DDI in its plans submitted for its water plant do not meet the level and manner or the timeline it submitted to the District in its written request for service.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The petition from Double Diamond, Inc., for an Expedited Release from Certificate of Convenience and Necessity (CCN) No. 12362 of Northwest Grayson County WCID 1 in Grayson County; Application No. 35564-C, is hereby denied.
2. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.

3. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

ISSUE DATE: JUL 23 2007

TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

7-23-2007
For the Commission